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No. 679

In The Supreme Court of The United States

OCTOBER TERM, 1969.

DR. JONATHAN Q. COLE,
Superintendent, Boston State Hospital
AND
DR. MILTON GREENBLATT, *Commissioner,*
Department of Mental Health,
Commonwealth of Massachusetts
Appellants

v.

LUCRETIA PETEROS RICHARDSON,
Appellee

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

MEMORANDUM IN OPPOSITION TO THE MOTION TO DISMISS

ROBERT H. QUINN,
Attorney General
MARK L. COHEN,
Assistant Attorney General
WALTER H. MAYO III,
Assistant Attorney General
GREGOR I. MCGREGOR,
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MEMORANDUM IN OPPOSITION TO THE MOTION TO DISMISS

The appellee has moved this Court to dismiss the appeal on the grounds of mootness. As shown in the affidavit attached, appellants submit that this case is not moot. The affidavit of Doctor Cole states that at all times since the decision of the District Court it has been open to the appellee to apply for employment at the Boston State Hospital and that employment "consonant with her abilities and qualifications" has been available, if the appellee desired to apply for such employment, and, finally, the

specific project for which the appellee was employed still exists. For these reasons, we submit that the motion to dismiss and/or affirm should be denied and probable jurisdiction should be noted.

Respectfully submitted,

ROBERT H. QUINN,
Attorney General

MARK L. COHEN,
Assistant Attorney General

WALTER H. MAYO III,
Assistant Attorney General

GREGOR I. MCGREGOR,
Deputy Assistant Attorney General

Certificate of Service

I, Walter H. Mayo III, a member of the bar of the Supreme Court of the United States, hereby certify that I have served a copy of the Memorandum in Opposition to the Motion to Dismiss on the appellee by mailing same today, via first class mail, postage prepaid, to Ernest Winsor, Esquire, Hale & Dorr, 28 State Street, Boston, Mass.

WALTER H. MAYO III

Dated: February 6, 1970

C11. 10M-9-69-045333

The Commonwealth of Massachusetts

JOHN F. X. DAVOREN
Secretary of the Commonwealth

D 827

Boston, February 6, 1970

I HEREBY CERTIFY, *That at the date of the attestation hereto annexed*

CHARLES K. MONE

whose name is signed to the attached certificate of acknowledgment, proof or affidavit, was at the time of taking such acknowledgment, proof or affidavit, a NOTARY PUBLIC for the said Commonwealth duly commissioned and sworn; that to his acts and attestations as such, full faith and credit are and ought to be given in and out of court; that as such Notary Public he was by law authorized to take the same, to take depositions, to administer oaths and take acknowledgments of deeds or conveyances of lands, tenements or hereditaments and other instruments throughout the Commonwealth to be recorded according to law; that I have compared his signature to the annexed attestation with the original on file in this office, and verily believe it to be genuine. I further certify that the impressions of the seals of Notaries Public are not required by law to be filed in this office.

IN TESTIMONY OF WHICH, *I have hereunto affixed the*
GREAT SEAL OF THE COMMONWEALTH
the date above written.
JOHN F. X. DAVOREN
Secretary of the Commonwealth

IN THE SUPREME COURT
OF THE UNITED STATES

OCTOBER TERM, 1969

No. 679

DR. JONATHAN O. COLE, *Superintendent*, Boston State Hospital, and DR. MILTON GREENBLATT, *Commissioner*, Department of Mental Health, Commonwealth of Massachusetts,

Appellants,

v.

LUCRETIA PETEROS RICHARDSON,

Appellee.

AFFIDAVIT.

Dr. Jonathan O. Cole, being duly sworn, deposes and says:

1. At all times subsequent to the decision of the United States District Court in the above-entitled case on June 26, 1969 it has been, and at the present time is, open for the appellee Lucretia Peteros Richardson to apply for employment at Boston State Hospital and enjoy full consideration pursuant to the terms of the decision of the District Court;

2. Employment consonant with her abilities and qualifications has been and is periodically available should she wish to apply for such employment;

3. The project for which the appellee was hired is still on-going at Boston State Hospital.

DR. JONATHAN O. COLE

Subscribed and sworn to before me
this 6th day of February, 1970.

CHARLES K. MONE
Notary Public

My commission expires: April 2, 1976